

**OPINION
67-155**

April 17, 1967 (OPINION)

Mr. R. G. Nerison

Assistant State's Attorney

Stutsman County

RE: Park Districts - Tax Levy - Employees Pension

This is in reply to your letter with regard to tax levy by a park district to provide park district employees with a Federal Social Security plan.

Your specific question is stated as: "The Board of Park Commissioners now wish to know whether they can make the special levy provided for in section 40-46-26 of the North Dakota Century Code for the purpose of paying the park district's share of the Federal Social Security plan."

Section 40-49-21 of the North Dakota Century Code provides:

PARK DISTRICTS MAY PROVIDE FOR EMPLOYEES' PENSION. The board of park commissioners of a park district in any city which has adopted an employees' pension pursuant to the provisions of chapter 40-46, may, with the consent of the governing body of such city and the consent of not less than a majority of the city employees' pensions pursuant to such chapter 40-46, and payments made by employees or taxes levied by such park district shall be paid into the employees' pension fund of such city, and the benefits provided for the employees of such park district shall be the same as provided for employees for such city." Section 40-49-22 of the North Dakota Century Code provides:

TAX LEVY FOR PARK DISTRICT EMPLOYEES' PENSION FUND. Any park district adopting the provisions of section 40-49-21 may levy a tax not in excess of the ratio which the total amounts paid to the employees of such city per annum bears to the total amount of taxes levied by such city for such employees' pension fund, which tax levy shall be in addition to all other taxes now authorized by law to be levied by park districts. The proceeds of such tax levy shall be placed in the employees' pension fund of the city."

Chapter 40-46 of the North Dakota Century Code and particularly section 40-46-26 of said chapter do appear to contemplate city adoption of a Federal Social Security system plan or some other type of pension plan. On such basis there would appear to be no legal difficulty in levying a park district tax pursuant to section 40-49-22 of the North Dakota Century Code into the fund for same.

HELGI JOHANNESON

Attorney General